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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE – Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUL 20 2011

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IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, LLC, DBA JOHNSON
UTILITIES COMPANY FOR AN INCREASE IN
ITS WATER AND WASTEWATER RATES FOR
CUSTOMERS WITHIN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-02987A-08-0180

**PROCEDURAL ORDER SETTING
PUBLIC COMMENT HEARING IN
FLORENCE, ARIZONA**

BY THE COMMISSION:

On March 31, 2008, Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson Utilities") filed with the Arizona Corporation Commission ("Commission") an application for an increase in its water and wastewater utility rates.

Intervention was granted to Swing First Golf, LLC ("Swing First"), the Town of Florence ("Florence"), and the Residential Utility Consumer Office ("RUCO"). The Commission's Utilities Division ("Staff") is also a party to the case.

On August 25, 2010, the Commission issued Decision No. 71854 in this docket, setting permanent rates for Johnson Utilities.

On February 28, 2011, Johnson Utilities filed a Petition to Amend Decision No. 71854 Pursuant to A.R.S. § 40-252 ("Petition").

At an Open Meeting of the Commission held on April 5, 2011, the Commission directed the Hearing Division to set a procedural conference to discuss procedural issues including a timeframe for the parties to file responses to the Petition.

On April 6, 2011, a Procedural Order was issued setting a procedural conference to be held on April 12, 2011. The procedural conference convened as scheduled. The Company, Swing First, RUCO, and Staff appeared through counsel and reached agreement on a procedural schedule for filing responses to the Petition and for a reply to the responses.

1 On June 1, 2011, Swing First, RUCO and Staff filed responses to the Petition, including their
2 positions on customer notice, any additional issues to be considered on reopening, and
3 recommendations for the Commission's procedure for processing the Petition if the request to reopen
4 Decision No. 71854 was granted.

5 Also on June 1, 2011, Johnson Utilities made a filing in regard to the rate impacts of the relief
6 requested in the Petition, its position on customer notice, and procedure for processing the Petition if
7 the request to reopen Decision No. 71854 was granted.

8 On June 15, 2011, Johnson Utilities filed its reply to the responses filed by Swing First,
9 RUCO and Staff.

10 On July 12, 2011, at an Open Meeting of the Commission, the Commission voted to reopen
11 Decision No. 71854. The Commission directed Johnson Utilities to prepare a form of customer
12 notice, acceptable to Staff, to inform customers of the rate impacts of granting the relief requested in
13 the Petition; of the time and place of a public comment session to be held in Pinal County on August
14 2, 2011; and of the August 11, 2011, Open Meeting date at which the Commission intends to
15 consider granting the relief requested in the Petition.

16 On July 19, 2011, Johnson Utilities filed a Proposed Form of Customer Notice. Therein, the
17 Company stated that Staff had substantive input in the preparation of the Proposed Form of Customer
18 Notice, and that Staff informed the Company that the form of notice attached to the filing is
19 acceptable to Staff.

20 On July 20, 2011, a telephonic procedural conference was convened at the request of the
21 Hearing Division in order to clarify whether the rate impacts in the Proposed Form of Customer
22 Notice included the effects of an imputation of income tax expense. The Company, Swing First,
23 RUCO and Staff appeared through counsel. Counsel for Florence declined the opportunity to attend.

24 At the telephonic procedural conference, the Company clarified that the rate impacts included
25 in the Proposed Form of Customer Notice do not include the effects of any imputed income tax
26 expense. The Company explained at the telephonic procedural conference that it requests relief
27 related to the ratemaking treatment afforded the Company in regard to income tax expense in
28 Decision No. 71854 similar to that afforded Sahuarita Water Company, LLC in Decision No. 72177

1 (February 11, 2011).¹ The Company stated that in the event the Commission at some point in the
2 future approves a policy to allow S-Corp and LLC entities to impute a hypothetical income tax
3 expense for ratemaking purposes, the Company intends to file a new motion to reopen Decision No.
4 71854 at that time, and that the Company understands that customers would be noticed as to impacts
5 of a possible resulting future amendment to Decision No. 71854 in the course of any Commission
6 proceeding on such a motion.

7 The Company further stated at the procedural conference that it can accomplish mailing and
8 publication of the notice in this proceeding by July 26, 2011.

9 A Procedural Order should be issued directing the Company to publish and mail notice of the
10 Public Comment in Florence and the Open Meeting in Phoenix, as set forth herein. The form of
11 notice is similar to the Proposed Form of Customer Notice attached to the Company's July 19, 2011
12 filing, with minor typographical changes and stylistic changes to comport with the Commission's
13 customary notices of public comment meetings.

14 IT IS THEREFORE ORDERED that a **public comment session** shall be held by the
15 Commission on **August 2, 2011, 2011, commencing at 6:00 p.m.**, or as soon thereafter as
16 practicable, **at the Sun City Anthem at Merrill Ranch Union Center, located at 3925 Sun City**
17 **Blvd., Florence, Arizona, 85132**, in order to allow customers of Johnson Utilities, LLC, dba
18 Johnson Utilities Company to provide public comment for the record on Johnson Utilities, LLC, dba
19 Johnson Utilities Company's February 28, 2011, Petition to Amend Decision No. 71854 Pursuant to
20 A.R.S. § 40-252.

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28 ¹ See Decision No. 72177 at 45-46.

IT IS FURTHER ORDERED that the Company shall provide public notice of the public comment session on this matter, and of the date the Commission intends to consider the Petition at an Open Meeting, in the following form and style, with the heading in no less than 24 point bold type and the body in no less than 10 point regular type:

**NOTICE OF PUBLIC COMMENT MEETING IN FLORENCE, ARIZONA
AND OPEN MEETING IN PHOENIX, ARIZONA REGARDING
JOHNSON UTILITIES, LLC, DBA JOHNSON UTILITIES COMPANY'S
PETITION TO AMEND DECISION NO. 71854 PURSUANT TO A.R.S. § 40-252
(Docket No. WS-02987A-08-0180)**

On March 31, 2008, Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson Utilities" or "Company") filed a rate application with the Arizona Corporation Commission ("Commission") for its water and wastewater utility services using a 2007 test year. On August 25, 2010, the Commission issued Decision No. 71854 approving decreases in the rates and charges for Johnson Utilities, which were retroactive to June 1, 2010. On February 28, 2011, Johnson Utilities filed a Petition to Amend Decision No. 71854 Pursuant to A.R.S. § 40-252 ("Petition") to increase the rates approved in Decision No. 71854 on the grounds that the Company is operating at a loss as a result of the new rates approved in Decision No. 71854.

Commission Sets Local Public Comment Meeting and Phoenix Open Meeting

The Commission will hold a **Public Comment Meeting** to take public comment regarding the Petition on **August 2, 2011, at 6:00 p.m. at the Sun City Anthem at Merrill Ranch Union Center**, located at 3925 Sun City Boulevard, Florence, Arizona 85132. The Commission plans to hold an **Open Meeting** to consider the Petition on **August 11, 2011, at 10:00 a.m. at the Commission's offices**, located at 1200 West Washington Street, Phoenix, Arizona 85007.

Written public comments may be submitted by mailing a letter referencing Docket No. WS-02987A-08-0180 to the Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, Arizona 85007, or by e-mail.

For a form to use and instructions on how to e-mail comments to the Commission, go to: http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

Water Division Rates

Under the rates approved in Decision No. 71854, a residential customer with an average usage of 6,931 gallons per month with a ¾-inch water meter experienced a monthly rate decrease of \$12.78, or approximately 30.01 percent, from \$42.59 per month to \$29.81 per month. The Company's Petition requests an annual revenue increase for its water division of approximately \$264,823 over the revenues approved in Decision No. 71854. For a residential water customer with an average usage of 6,931 gallons per month, with a ¾-inch water meter, the Company's request would increase the monthly rate by \$1.05, or approximately 3.5 percent, from \$29.81 per month under Decision No. 71854 to \$30.86 per month. **The actual change in rates for individual customers would vary**

1 depending upon the type and quantity of service provided. You may contact the Company and
2 request a calculation of the impact of its proposals on your account.

3 Wastewater Division Rates

4 Under rates approved in Decision No. 71854, a residential wastewater customer with a $\frac{3}{4}$ -inch water
5 meter experienced a monthly rate decrease of \$5.71, or approximately 14.83 percent, from \$38.50 per
6 month to \$32.79 per month. The Company's Petition requests an annual revenue increase for its
7 wastewater division of approximately \$1,872,398 over the revenues approved in Decision No. 71854.
8 For a residential wastewater customer with a $\frac{3}{4}$ -inch water meter, the Company's request would
9 increase the monthly rate by \$6.41, or approximately 19.5 percent, from \$32.79 per month to \$39.20
10 per month. **The actual change in rates for individual customers would vary depending upon the
11 type and quantity of service provided. You may contact the Company and request a
12 calculation of the impact of its proposals on your account.**

13 The Commission is not bound by the proposals made by the Company in its Petition; therefore, the
14 final rates approved by the Commission may be higher or lower than the rates requested by Johnson
15 Utilities.

16 How You Can View or Obtain a Copy of the Petition

17 Copies of the Petition are available from Johnson Utilities at 968 East Hunt Highway, Queen Creek,
18 Arizona 85242 and at the Commission's Docket Control Center at 1200 West Washington, Phoenix,
19 Arizona, for public inspection during regular business hours and on the Internet via the Commission's
20 website (www.azcc.gov) using the e-Docket function located at the bottom of the Commission's
21 website home page.

22 ADA/Equal Access Information

23 The Commission does not discriminate on the basis of disability in admission to its public meetings.
24 Persons with a disability may request a reasonable accommodation such as a sign language
25 interpreter, as well as request this document in an alternative format, by contacting the ADA
26 Coordinator, Shaylin Bernal, e-mail sbernal@azcc.gov, voice phone number 602-542-3931.
27 Requests should be made as early as possible to allow time to arrange the accommodation.

28 IT IS FURTHER ORDERED that Johnson Utilities, LLC, dba Johnson Utilities Company
shall cause the above notice to be published once in a newspaper of general circulation in its service
area, and shall cause the notice to be mailed to each of its current customers, with publication and
mailing to be completed no later than **July 26, 2011**.

IT IS FURTHER ORDERED that Johnson Utilities, LLC, dba Johnson Utilities Company
shall file certification of publication and mailing no later than **July 29, 2011**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon publication and
mailing of same, notwithstanding the failure of an individual customer to read or receive the notice.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
4 31, 38, and 42 and A.R.S. § 40-243 with respect to the practice of law.

5 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
6 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
7 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
8 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
9 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
10 Law Judge or the Commission.

11 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
12 Communications) continues to apply to this proceeding and shall remain in effect until the
13 Commission's Decision in this matter is final and non-appealable.

14 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
15 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
16 hearing.

17 DATED this 20th day of July, 2011.

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21 TEENA MIBILIAN
ADMINISTRATIVE LAW JUDGE

22 Copies of the foregoing mailed/delivered
this 20th day of July, 2011 to:

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15
16 By:


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Secretary to Teena Jibilian